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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,538	02/25/2002	Takashi Wakutsu	219295US2RD	8278

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,538

Applicant(s)

WAKUTSU ET AL.

Examiner

Tuan A. Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 31-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

Claims 31-38 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 01/18/2005.

Applicant's election with traverse of Group I (claims 1-30) in the reply filed on 01/18/2005 is acknowledged. The traversal is on the ground(s) that a search and examination of the entire application would not place a serious burden on the Examiner. This is not found persuasive because inventions [I] (claims 1-30) and [II] (claims 31-38) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention [I] has separate utility such as means for executing a qualification test on the representative terminal of a plurality of radio terminals so as to determine whether or not the representative terminal and the plurality of radio terminals can be used in a desired radio communication system. See MPEP § 806.05(d). Therefore, these inventions are distinct and have acquired a separate status in the art because of their recognized divergent subject matter.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Riordain (6,434,364) in view of Hansson (6,023,620).

Regarding claims 8 and 10-13, O'Riordain discloses a qualification system for testing radio communications (See fig. 1), comprising: a plurality of radio terminals 12; a representative terminal 12 having a machine type identical to a machine type of the plurality of radio terminals 12 (See figs. 1, 3 and col. 5 lines 22-30); a Radio Network Performance Manager (RNPM) 24 including a test program corresponding to a plurality of radio communication systems that can be used by the representative terminal 12, and configured to execute a qualification test on the representative terminal 12 so as inherently to determine whether or not the representative terminal 12 can be used in a desired radio communication system from the plurality of communication systems, wherein the RNPM 24 determines a control sequence (parameter control software) for controlling a radio unit of the representative terminal 12, by which the representative terminal 12 can pass the qualification test (See fig. 2 a-b, 3-5 and col. 6 line 14 to col. 8 line 38). However, O'Riordain does not mention that the RNPM is capable of notifying the determined control sequence to the plurality of radio terminals 12 via a service center and a base station. Hansson teaches a method and system (See fig. 1) comprising an update server processor 100 (service center) for downloading new

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version of control software (the new version of control software, of course, inherently has passed some types of testing processes) into a plurality of radio terminals 110 via a base station 120 when the new control software is available (See fig. 1 and col. 2 lines 41-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Hansson in configuring the system as disclosed by O'Riordain with the update server processor (service center) for the advantage of upgrading and/or modifying subscriber terminals to be able functioning effectively in accordance with the communication system and/or the latest services provided by the network service provider.

Claims 17-21 and 24-28 are rejected for the same reasons as set forth in claims 8 and 10, as apparatus.

Claims 1-5 are rejected for the same reasons as set forth in claims 8 and 10, as method.

Regarding claim 9, O'Riordain & Hansson disclose as cited in claim 8. O'Riordain further discloses each of the plurality of radio terminals 12 includes: a radio unit 32 configured to convert an analog radio signal into a digital signal; a radio unit controller 30 configured to control the radio unit 32; a resource 26 configured to communicate the digital signal with the radio unit to perform a signal processing operation on the digital signal and to reset a function of the signal processing operation; and a resource controller 30 configured to manage the resource (See fig. 3 and col. 7 lines 41-45).

Regarding claim 14, O'Riordain & Hansson disclose as cited in claim 12.

However, they do not mention that the service center notifies the test success message (software) to the plurality of radio terminals by wired communication. Since downloading software by wired communication such as via Internet is a well known technique in the art; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the service center with a capability of wired communication for the advantage of expanding the capability of the system to various types of communication protocols.

Claims 22 and 29 are rejected for the same reasons as set forth in claim 14, as apparatus.

Claim 6 is rejected for the same reasons as set forth in claim 14, as method.

Regarding claim 15, O'Riordain & Hansson disclose as cited in claim 8.

O'Riordain further discloses the RNPM 24 comprises: a memory configured to store information indicative of an arrangement of resources in the representative terminal 12 and inherently a controlling unit configured to control the RNPM 24, wherein the controlling unit performs a qualification test while the controlling unit sequentially changes both the information stored in the memory and the test program (See col. 5 lines 42-49, col. 6 lines 5-13).

Regarding claim 16, O'Riordain & Hansson disclose as cited in claim 8.

O'Riordain further discloses the RNPM 24 performs a qualification test for all combinations of the radio communication system (See col. 6 lines 52-64).

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Claims 23 and 30 are rejected for the same reasons as set forth in claim 16, as apparatus.

Claim 7 is rejected for the same reason as set forth in claim 16, as method.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Osborne (6,088,588); Cook et al. (6,577,614); Kirkpatrick (5,933,776); Kanago et al. (6,587,671); Marran (6,549,770); Costello et al. (2004/0221284).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(571) 272-7858**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Nick Corsaro**, can be reached at **(571) 272-7876**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

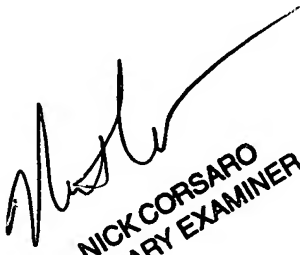
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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth-Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


Tuan Tran

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NICK CORSARO
PRIMARY EXAMINER